



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	09/058,350	FILING DATE	04/10/98	FIRST NAMED APPLICANT	SIMMS	ATTY. DOCKET NO.	D 0942.3840001
--------------------	------------	-------------	----------	-----------------------	-------	------------------	----------------

HM12/0816
STERNE KESSLER GOLDSTEIN & FOX
SUITE 600
1100 NEW YORK AVENUE N W
WASHINGTON DC 20005-3934

EXAMINER

KUNZ, G	
ART UNIT	PAPER NUMBER

1623

9

DATE MAILED: 08/16/99

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 6-3-99

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 2-22 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) 2-11 and 13-22 is/are allowed.
☐ Claim(s) 12 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 7
☐ Interview Summary, PTO-413
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

09/058,350
PTOL 326 (Rev. 9/96)

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Art Unit: 1623

Detailed Action

Applicant's amendment B filed 6-3-99 has been received and entered into the record.

Claims 2 - 22 are pending in the case.

35 USC 103 Rejection

The previous rejection of claims 2 - 20 under 35 USC 103 as being unpatentable Sambrook et al. has been withdrawn in view of the applicant's arguments that the rejection lacks sufficient motivation for combining the references in such a manner as to arrive at applicant's invention.

35 USC 112, Second Paragraph

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 is rendered vague and indefinite because it fails to define at least two essential components of the kit.

Claims 2 - 11 and 13 - 22 are allowed. Claim 12 is rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kunz, whose telephone number is (703) 308-4623. The examiner can normally be reached on Tuesday through Friday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Mondays.

Art Unit: 1623

If attempts to reach the examiner by telephone are unsuccessful, a supervisor patent examiner can be reached: Cecilia Tsang at (703) 308-4311 or Gary Jones at (703) 308-1152. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.

Gary L. Kunz
GARY L. KUNZ
PRIMARY EXAMINER
GROUP 1200